

Eimer Stahl LLP  
224 South Michigan Avenue, Suite 1100  
Chicago, Illinois 60604  
Tel 312 660 7600 Fax 312 692 1718

ILLINOIS COMMERCE  
COMMISSION

EimerStahl<sup>LLP</sup>

2015 JAN -8 A 11: 11

CHIEF CLERK'S OFFICE

Mark R. Johnson

(312) 660-7628  
mjohnson@eimerstahl.com

January 7, 2015

**VIA HAND DELIVERY**

Ms. Elizabeth Rolando  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62701

Re: 14-NOI-01 ComEd's Reply Comments

Dear Ms. Rolando:

Pursuant to the Illinois Commerce Commission's Notice of Inquiry ("NOI") dated September 30, 2014, Commonwealth Edison Company submits the enclosed Surreply Comments in accordance with the schedule set forth in the NOI.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Mark R. Johnson

Enclosures

## STATE OF ILLINOIS

## ILLINOIS COMMERCE COMMISSION

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Illinois Commerce Commission  
On Its Own Motion

CHIEF CLERK'S OFFICE

Notice of Inquiry regarding retail  
electric market issues

14-NOI-01

**SURREPLY COMMENTS OF COMMONWEALTH EDISON COMPANY**

Commonwealth Edison Company ("ComEd") submits these Surreply Comments in response to the December 3, 2014 Reply Comments filed with the Illinois Commerce Commission ("ICC or Commission") regarding the Notice of Inquiry ("NOI") and related workshops.

Over the course of two rounds of comments and two workshops, the principle issue underlying this NOI has come into sharper focus – namely, the degree to which customers are dissatisfied with "variable rate" contracts and, if so, what educational measures or other remedies should be undertaken to address this dissatisfaction. As a general matter, ComEd agrees with the observations of the Coalition of Energy Suppliers and the National Energy Marketers Association (jointly "CES-NEMA") that no data has been provided in this proceeding to substantiate or quantify this dissatisfaction, and it is therefore difficult to ascertain whether any action is warranted at this time. See CES-NEMA Reply Comments at 2.<sup>1</sup> Indeed, it is unclear whether any of the 14 Citizens Utility Board ("CUB") complaints referenced in the CUB and City of Chicago's ("City") Petition for Investigation<sup>2</sup> have been formally filed with the

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<sup>1</sup> To the extent complaints exist, ComEd suggests that they be routed through the ICC's Consumer Services Division to increase transparency and, if applicable, appropriate resolution.

<sup>2</sup> *Citizens Utility Board and The City of Chicago*, ICC Docket No. 14-0422, Verified Petition for Investigation into Alternative Retail Electric Suppliers' Compliance with Section 16-115A of the Public Utilities Act.

Commission. In addition it is uncertain how pertinent these complaints are, in what capacity and over what period of time CUB has received complaints regarding variable rates from 1, 20 or 2,000 customers. It should also be noted that CUB and City's Petition for Investigation (Docket No. 14-0422) has been dismissed, as the issues raised of compliance with Section 16-115A of the Public Utilities Act (the "Act") by alternative retail electric suppliers ("RESs") are to be covered in this NOI, further solidifying that the underlying issues of this NOI lie with the RESs.

While ComEd thus understands the RESs' reluctance to undertake new measures without further substantiation of the claims of customer dissatisfaction, ComEd is surprised that the RESs nevertheless recommend that the *utilities* now undertake certain educational and branding measures. If, indeed, customer dissatisfaction has not been sufficiently demonstrated to CES-NEMA's (and others') satisfaction, it is difficult to understand why CES-NEMA (and the Retail Energy Supply Association ("RESA")) claim that the utilities – rather than suppliers or even the ICC – should nevertheless be required to take on additional customer education and branding initiatives on the suppliers' behalf while RESs remain unaffected. Moreover, the suppliers' suggestion that utility bills be used to educate customers is an ineffective and inappropriate forum for such education. Rather than continuing to rely on utilities to undertake education and other efforts to remedy claims of customer confusion, it is perhaps time for the RESs to invest in their existing and potential customer relationships to ensure customer satisfaction of such products.

#### **I. Price to Compare**

*"1. Should the Commission specify how a supplier has to portray the utility Price-to-Compare?"*

In response to CUB's proposals that RESs should present *only* the utility's Price-to-Compare and that utilities should highlight the Price-to-Compare on all utility bills, ComEd, the

Illinois Competitive Energy Association (“ICEA”) and RESA each pointed out that these proposals would increase customer confusion. ComEd Reply Comments at 1-3; ICEA Reply Comments at 14; RESA Reply Comments at 13. In any event, it is unclear what issue, if any, CUB seeks to remedy through its proposal in light of widespread switching.

What is clear, however, is that CUB’s proposal would introduce confusion and misinform customers. Assuming that CUB seeks to better educate and inform customers, its proposal does just the opposite by creating a misleading comparison – *i.e.*, that the utility price is the only price to beat. Yet, this sort of misimpression would undo years of competitive market development by ignoring the pricing of dozens of other suppliers in the market. Moreover, the utility’s Price-to-Compare may bear little or no relation to the RES’s product (*e.g.*, fixed rate vs. time-of-use rate or a price that is set over a period of time), which would further contribute to an inaccurate comparison. And, with respect to presentment of the Price-to-Compare on the utilities’ bills in particular, CUB’s proposal would seem to create the undesirable impression that the utility is competing with the RESs, which, again, would erode the progress made in developing the competitive market over the past 15 years. In this regard, moreover, the proposal would appear to run contrary to the Integrated Distribution Company rules. As such, ComEd’s current and newly redesigned bills provide the most informative and competitively neutral messaging to customers by directing them to the [pluginillinois.com](http://pluginillinois.com) site to review current offers and directly to their RES for questions on their respective charges.

## **II. Consumer Education**

*“5. Should utilities be required to display the supplier logo on a utility-consolidated bill?”*

As an initial matter, it is unclear to ComEd how (if at all) this question relates to the larger, more pressing issue of whether customers are dissatisfied with variable rates. Among the

Replies, only RESA attempted to offer a justification for the costly and legally dubious proposed requirement that the RESs' logos be displayed on utility bills, claiming that it would eliminate confusion and remind the customers that they are on competitive supply. RESA Reply Comments at 2-3. While CES-NEMA supported presentment of the logo, its only "argument" was the plainly false claim that there was "agreement" on the issue. CES-NEMA Reply Comments at 11. To the contrary, however, no justification or agreement exists with respect to this issue. As explained below, no party made any attempt to address the numerous operational and financial challenges identified by Ameren Illinois Company ("Ameren") and ComEd regarding the addition of suppliers' logos to utility bills.

As an initial matter, ComEd suggests that resolution of this issue be governed by CES-NEMA's own standard, which directs that additional obligations should not be imposed "when the market is already working well and there is no evidence of a problem." CES-NEMA Reply Comments at 11. Indeed, no specific evidence has been introduced in this docket that customers are dissatisfied with the current identification of suppliers on ComEd's newly redesigned bills. As noted in ComEd's Initial and Reply Comments, the utility-consolidated bill *already* identifies the RES as the electric supplier, including its phone number, web address, billing line items, and optional messages. ComEd Initial Comments at 1-2; ComEd Initial Comments Exhibit A (sample bill); ComEd Reply Comments at 6. The addition of a color logo would not meaningfully add to the information provided. ComEd Reply Comments at 6. Applying the CES-NEMA standard to this issue, it is clear that the proposal is a purported solution in search of a problem, and should be rejected.

With respect to RESA's claim that customers need to be reminded that they have been switched and are on competitive supply, ComEd notes that it sends out letters to all customers

upon the receipt of a switching request from a RES and that consolidated bills already identify the supplier's name, web address, and phone numbers, as well as permit the RES to include bill messages at its option. To the extent that customers do not know that they have been switched, this lack of knowledge reflects a failure of communications by the RES rather than by the utility. ComEd Reply Comments at 6. The utility-consolidated bill, moreover, is neither intended nor suited for the purpose of promoting the RES's branding or serving as the principal means of a RES's communication with its customers. While RESs have pushed back in this docket on any additional education efforts that might be imposed upon them, the fact remains that they have a variety of other means available to them to strengthen their relationships with customers, provide education about rates and programs, and promote their brand. Utilities have already invested thousands of hours in educational initiatives to ensure the success of the competitive retail market – it is now time for the RESs to become more active regarding the education of their customers. *See* ComEd Reply Comments at 3. If they wish to reinforce brand awareness with their customers, they may do so at their time and expense just as any other company may do in a competitive market.

Indeed, this proposal to modify ComEd's newly redesigned bill raises a variety of costly and complicated issues that have not even been addressed by the suppliers in their Replies. Because CES-NEMA falsely claim that there is "agreement" on this issue, it is necessary to again set forth the numerous challenges that would need to be overcome before suppliers' logos could be reflected on utilities' bills. The parties in support of the logo proposal have not addressed, much less resolved, any of the following issues:

- **Implementation Challenges.** Earlier this year, ComEd redesigned its residential bills to present billing information in a clear and concise customer-friendly format. By clearly categorizing the portions of the bill, customers are able to more readily distinguish the different components of their bill and, ultimately, are equipped to comparison shop for retail electric supply among RESs or participate in a local municipal aggregation offering. Moreover, customers who have switched to a RES which has elected to take service under ComEd's Purchase of Receivables with Consolidated Billing ("PORCB") program are clearly able to view their associated power and energy charges and easily identify which RES is providing service and how to contact their RES. ComEd also added a consolidated Message Center section to the bills that displays bill messages from ComEd and RESs using the PORCB program.

During the bill redesign process, ComEd also learned that its bill print vendor does not have the functionality to include logos on the bills, much less the logos of nearly 50 different RESs that participate in the PORCB program. However, even if ComEd were to seek to establish this service with a bill print vendor in the future, complex information technology ("IT") issues would need to be addressed. Specifically, it is ComEd's understanding that the current electronic data interchange ("EDI") standards would need to be revised to accommodate the transfer of logos from RESs to the utility to be printed onto the consolidated bill. EDI is the computer-to-computer exchange of electronic business information in standard, non-proprietary, machine-readable formats. Using EDI "standards" (rules for data format) helps ensure successful exchanges

of electronic data, and, in particular, ensures that ComEd's and RESs' computer systems are able to communicate so that billing, usage, and payment information can easily be exchanged.

Currently, however, there is no EDI standard in place that would facilitate the transfer of logos. Assuming these standards could be developed, it would also be necessary to explore the bill print vendor's capabilities regarding the unique printing requirements for each logo, including, for example, the need for additional colors not already reflected on ComEd's bills and issues associated with the resolution and appearance of the logo as applied to the bills. Further, logo sizes and complexity vary, which creates uncertainty regarding whether a given logo will be legible or recognizable based on the size and area available to display it on the new bill. Given that there are currently nearly 50 RES logos, this process could quickly become extremely costly and unwieldy to implement and administer.

- ***Timing and Cost Challenges.*** To overcome the implementation issues described above, a substantial amount of time and capital would need to be invested in exploring the challenges posed by the EDI framework, as well as the challenges unique to each electric utility (*e.g.*, current bill format and capabilities of current bill print vendor). In other words, ComEd anticipates not only start-up costs associated with IT changes, but also ongoing, permanent increases related to print vendors and accommodating nearly 50 RES logos of varying color schemes, complexity and resolution. Additionally, ComEd expects to incur increased utility expenses associated with managing the logo process, including



accommodating new RESs and RES logo changes that may occur over time in the normal course of business, not to mention the potential for additional costs such as increased postage if this change results in an additional bill page. ComEd assumes that the costs it incurs would be recovered from RESs through Rider PORCB. However, given that ComEd's redesigned bill already clearly identifies, if applicable, the customer's RES in a well-defined section of the bill, lists RES contact information, and provides for messages from the RES, ComEd is concerned that the time and expense to reflect nearly 50 logos on utility bills would not be a prudent use of limited resources.<sup>3</sup>

- **Legal Challenges.** As an initial matter, no requirement exists in Illinois statutes or rules that a utility must reflect a RES's logo on the utility's bills. Interestingly, the Commission first considered an analogous issue in the context of implementing the Single Billing Option ("SBO") under Section 16-118(b) of the Act. The SBO, which ComEd offers under its Rider SBO – Single Bill Option, is essentially the converse of PORCB. SBO authorizes *the RES* to issue a single bill to retail customers taking supply service from the RES, which would also include the delivery services charges from the electric utility. In the course of considering Illinois utilities' various delivery services implementation plans and tariffs, the Commission had the opportunity to address whether RESs should be required to include *the utility's* logo on the RES-issued bills. The Commission orders

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<sup>3</sup> Moreover, because nonresidential bills have not been redesigned, additional costs to redesign those bills and add logos would include even more expense.

uniformly reflect the conclusion that RESs could not be required to do so.<sup>4</sup> Given that RESs would only have to contend with a limited universe of electric utility logos, these Commission orders are even more persuasive here where the utilities are receiving information from nearly 50 RESs. Just as RESs are not required to reflect electric utility logos under the SBO, electric utilities should not be required to reflect RES logos under PORCB.

In addition, to the extent electric utilities were required to reflect RES logos on utility-issued bills, complicated trademark issues would need to be addressed and resolved. For example, RESs would need to authorize the utility to use their logos, as well as fully indemnify the utility from any claims that could arise in conjunction with the utility's use of the logos. Moreover, careful consideration would need to be given to the issue of customer confusion that might be created by adding a RES logo to the utility's bill, including any misimpression that the appearance of the two logos on the same bill means the utility and RES are affiliated or engaged in a co-marketing effort. Continuing with the current "plain text" identification of the RES, however, avoids these issues.

With virtually no justification presented in support of this proposal or any proposed resolution of these complicated and costly issues, it is clear that it should not – and likely cannot – be implemented.

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<sup>4</sup> See, e.g., *Re Central Illinois Light Co.*, ICC Docket Nos. 99-0119, & 99-0131 (Cons.), Order (Aug. 25, 1999), 1999 WL 1005210 at 62 (concluding that the only required items a RES must place on its bill are the name of the delivery service provider and the line item charges the utility provides to the RES); *Re Central Illinois Public Service Co. dba AmerenCIPS*, ICC Docket No. 99-0121, Order (Aug. 25, 1999), 1999 WL 1016969 at 89 (same); *Illinois Commerce Comm'n.*, ICC Docket No. 00-0494, Interim Order (Oct. 18, 2000), App. A. at 4 (reflecting parties' stipulation that "[n]o utility will require any RES to include its logo on any bill issued under the single bill option").

### III. Cancellation/Rescission

*"2. Should the Commission change the rescission period for customers with a smart meter? If so, what should the new rescission period be?"*

Throughout this NOI process, ComEd has sought additional clarity regarding the nature of this question in light of parties' comments, which have interpreted the question in different ways. For example, some parties have used the question as a means to proposing a shortening of the current rescission period of 10 calendar days specified under Part 412 of the Administrative Code (or the operations of a utility to handle a rescission), while others treat the question as an invitation to discuss off-cycle or accelerated switching for all customers. In either case, parties' proposals appear to be based on the misplaced assumption that the deployment of Advanced Metering Infrastructure ("AMI") and smart meters will facilitate these changes and that somehow utilities should be involved in a complaint a customer has with their supplier's pricing program. As explained below, however, these proposals are, again, a purported solution in search of a problem and, in any event, AMI deployment is still nascent – no evidence has been proffered to support the claim that AMI justifies shortened rescission periods or accelerated switching.

Like the prior "logo" issue, ComEd suggests that this issue also be viewed through the standard proposed by CES-NEMA, which directs that additional obligations should not be imposed "when the market is already working well and there is no evidence of a problem." CES-NEMA Reply Comments at 11. While CES-NEMA criticize CUB for its failure to quantify the level of claimed customer dissatisfaction regarding variable rates, CES-NEMA equally fail here to support their claims that "[c]onsumers have historically been confused by the delay in the switching process when they shop for energy." CES-NEMA Reply Comments at 12. Absent

this evidence, ComEd agrees with the CES-NEMA standard that no additional obligations should be imposed “when the market is already working well and there is no evidence of a problem.”

ComEd is also confused by CES-NEMA’s claims that accelerated switching would “aid consumers faced with increasing variable rates to switch to a different supplier” given that CES-NEMA claim that no evidence has been presented in this docket that consumers are dissatisfied with variable rates. *Compare* CES-NEMA Reply Comments at 12 *with* CES-NEMA Reply Comments at 2-3, 11. To the extent such dissatisfaction exists, ComEd does not believe that yet another utility-focused proposal that conveniently absolves RESs from any responsibility for customer education (or other activity) is the cure for what purportedly ails customers. Allowing consumers to switch suppliers more quickly will neither prevent consumers from being surprised by higher than expected rates, nor prevent them from believing (accurately or inaccurately) that lower rates are available from other suppliers, nor provide them with information that will allow them to compare and evaluate rates associated with alternative supply options and then make choices to remedy their dissatisfaction. Rather, accelerating switching will only provide consumers with a method of expressing their dissatisfaction more quickly without resolving the underlying customer education needs.

Moreover, and in any event, the installation of smart meters does not necessarily warrant any changes in the rescission period. ComEd Initial Comments at 5-6. As explained in Ameren’s Initial Comments, and ComEd’s Initial and Reply Comments, the installation of a smart meter does not alter the length of the billing window upon which ComEd’s rescission period is based. Ameren Initial Comments at 5-6; ComEd Initial Comments at 5-6; ComEd Reply Comments at 6-7. As also explained in ComEd’s Initial Comments, moreover, ComEd believes that this question is premature because its AMI and smart meter deployment is currently

underway and will not be completed until late 2018 (based on the current AMI Plan). ComEd Initial Comments at 5. ICEA's Reply Comments, indeed, concur with the conclusion that it is premature to decide whether off-cycle switching should or could be adopted now. ICEA Reply Comments at 9. And, to the extent another state may have approved off-cycle switching recently, Illinois can monitor the implementation of off-cycle switching while AMI continues to be built out in Illinois over the next several years.

Dated: January 7, 2015

Respectfully submitted,  
Commonwealth Edison Company

By: Mark R. Johnson / ds  
One of its attorneys

Thomas S. O'Neill  
Senior Vice President, Regulatory and  
Energy Policy and General Counsel  
Commonwealth Edison Company  
440 South LaSalle Street, Suite 3300  
Chicago, Illinois 60603  
(312) 394-7205  
[thomas.oneill@comed.com](mailto:thomas.oneill@comed.com)

Thomas J. Russell  
Exelon Business Services  
10 South Dearborn Street, 49<sup>th</sup> Floor  
Chicago, Illinois 60603  
(312) 394-5400  
[thomas.russell@exeloncorp.com](mailto:thomas.russell@exeloncorp.com)

Mark R. Johnson  
David M. Simon  
Eimer Stahl LLP  
224 South Michigan Avenue, Suite 1100  
Chicago, Illinois 60604  
(312) 660-7600  
[mjohnson@eimerstahl.com](mailto:mjohnson@eimerstahl.com)  
[dsimon@eimerstahl.com](mailto:dsimon@eimerstahl.com)

Attorneys for Commonwealth Edison Company